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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,480	08/22/2003	Tomoyuki Iwanaga	03560.003345	8722
5514	7590	04/07/2006		EXAMINER
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ROY, ANURADHA	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/645,480	IWANAGA, TOMOYUKI
	Examiner	Art Unit
	Anuradha Roy	3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on January 5, 2006.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1,4-9 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4-9, & 17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

Claims 1 & 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miwa (US Patent No. 5,946,073).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior detailed Office action.

**Claim Rejections - 35 USC § 103**

Claims 4 & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Miwa (US Patent No. 5,946,073) in view of Miwa (US Patent No. 6,602,192).

Regarding claim 4, the text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Regarding claim 17, Miwa ('073) discloses all of the elements claimed in amended claim 1. However, Miwa ('073) does not directly disclose a device wherein the control means stops the measuring operation after the completion of the predetermined number of measurements. Miwa ('192) directly teaches of a control means stops the measuring operation (Abstract) after the completion of the predetermined number of measurements. It would have been obvious to ordinary skill in the art at the time of the invention in view of Miwa ('192) to integrate a stopping means in order to prevent further unnecessary or potential harmful measurements based on the comparisons to predetermined pressure values.

### **Response to Arguments**

Applicant's arguments filed January 05, 2006 have been fully considered but they are not persuasive. Applicant states "Miwa ('073) is not believed to disclose or suggest at least giving a warning when obtained intraocular pressure is lower than first predetermined intraocular pressure or higher than a second predetermined intraocular pressure." However, Miwa ('073) does provide a control means capable of giving a "warning" in the form of a display (36), wherein comparison data can be viewed and thus provide a warning. Therefore, Miwa ('073) does anticipate a control means giving a warning, as claimed.

The Applicant correctly asserts, "Nor does Miwa ('073) disclose or suggest stopping a measuring operation after completion of a predetermined number of measurements of the eyes under measurement when the obtained intraocular pressure is lower than the a first predetermined intraocular pressure or higher than a second predetermined intraocular pressure." However, as stated in the prior office action, it is Miwa ('073) in view of Miwa (US Patent No. 6,602,192) that anticipates a control means that stops the measuring operation based on comparison (Abstract); therefore, no rebuttal can be made.

Applicant's arguments with respect to claim 17 have been considered but are moot in view of the new ground(s) of rejection.

As a final note, the Applicant is reminded that the claimed language uses the term "capable of." This term is directed to the predetermined intraocular-pressure setting means and has not been positively recited. The applicant should amend the claim to

positively recite those limitations lacking from the prior art.

### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is 571-272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can normally be reached between 9:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

~AR~



MAX F. HINDENBURG  
CHIEF DRAFTSMAN/PATENT EXAMINER  
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